



Issue Date: 29 April 2013

In the Matter of:

Case No.: 2013-FRS-00030

DAN RUSSELL,
Complainant,

OSHA No.: 5-1260-11-065

v.

BNSF RAILWAY COMPANY
Respondent.

**ORDER CANCELING HEARING AND DISMISSING
CASE WITH PREJUDICE**

This matter arises under the Federal Rail Safety Act, 49 U.S.C. § 20109, as amended by Section 1521 of the Implementing Recommendations of the 9/11 Commission Act of 2007, Pub. L. No. 110-53 (Aug. 3, 2007).

On March 13, 2013, I issued a *Notice of Hearing*, scheduling a formal hearing in this matter for July 24, 2013, in Washington D.C.¹ On March 28, 2013, I received a letter from Claimant's counsel requesting that this hearing be continued beyond July 24, 2013, to allow for Sequestration to expire and permit the matter to be scheduled for a formal hearing in or near Chicago, Illinois. On April 15, 2013, I issued an *Order Rescheduling Hearing*, canceling the July 24, 2013, hearing, and scheduling the hearing for September 11, 2013, in Chicago, Illinois.

On April 22, 2013, I received the parties' *Joint Stipulation of Dismissal and Withdrawal*. The parties state that Complainant no longer wishes to pursue his claims against Respondent. The parties request that Complainant's claims against Respondent be dismissed with prejudice, with each party bearing its own costs and fees. The parties understand that Complainant's withdrawal of his claims shall be deemed a final adjudication on the merits. The parties state that this *Joint Stipulation of Dismissal and Withdrawal* shall not constitute or imply any admission or concession by either party regarding the basis of Complainant's allegations or the merits of any claim or defense raised in this action.

Upon review, I find good cause has been shown, and I **GRANT** the parties' *Joint Stipulation of Dismissal and Withdrawal*. The hearing scheduled for September 11, 2013, in

¹ Although the parties had requested that this hearing be held in Chicago, Illinois, I scheduled it in Washington D.C. due to a freeze in travel funds available to OALJ after the Sequestration Order issued by the President on March 1, 2013. This travel freeze has since been lifted.

Chicago, Illinois, is hereby **CANCELED**. This case is **DISMISSED WITH PREJUDICE**.
SO ORDERED.

Washington, D.C.

CHRISTINE L. KIRBY
Administrative Law Judge